

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Facility ID Number: 55006

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) File Number EB-08-TP-0186
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) NAL/Acct. No. 200832700017
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) FRN: 000-50080-16
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² 47 U.S.C. § 503(b).

requested to inspect the station's public inspection file. The public inspection file did not contain any quarterly issues programs lists. The general manager was only able to provide a file of flyers and announcements of local events.

III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.³ The term "repeated" means the commission or omission of such act more than once or for more than one day.⁴

5. Section 11.35(a) of the Rules requires all broadcast stations to ensure that EAS encoders, EAS decoders and attention signal generating and receiving equipment is installed and operational so that the monitoring and transmitting functions are available during the times the station is in operation.⁵ On May 9, 2008, station WLAA's EAS equipment was not operational, because it was unable to send an EAS test. The station's general manager was unable to determine the cause of the malfunction during the inspection. There were no EAS logs at the station. There was also no evidence that the station had ever sent or received any EAS tests and no documentation of when the EAS equipment became non-operational. Based on the evidence before us, we find that Rama apparently willfully and repeatedly violated Section 11.35(a) of the Rules by failing to maintain operational EAS equipment.

6. Section 73.3526(a)(2) of the Rules requires broadcast stations to maintain for public inspection, a file containing materials listed in that section.⁶ Section 73.3526(c)(1) of the Rules states that the file shall be available for public inspection at any time during regular business hours.⁷ Section 73.3526(e)(12) of the Rules requires a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period ("Issues/Programs list") to be placed in the public inspection file.⁸ The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but not be limited to, the time, date, duration, and title of each program in which the issue was treated. Copies of the lists must be maintained in the file until final action has been taken on the station's next renewal application. On May 9, 2008, in response to a request to inspect the station's public inspection file during normal business hours, station WLAA was unable to produce any issues/programs lists, and there was no evidence that the station had ever compiled or maintained such lists in the public inspection file. Although the station maintained a folder of flyers and local announcements, this folder did not include the time or date when the information was aired, the name of the program, or a description of the local issues. Based on the evidence before us, we find that Rama apparently willfully and

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁵ 47 C.F.R. § 11.35(a).

⁶ 47 C.F.R. § 73.3526(a)(2).

⁷ 47 C.F.R. § 73.3526(c)(1).

⁸ 47 C.F.R. § 73.3526(e)(12).

repeatedly violated Section 73.3526 of the Rules by failing to maintain a complete public inspection file and apparently willfully violated Section 73.3526 of the Rules by failing to make available a complete public inspection file.

7. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"), and Section 1.80 of the Rules, the base forfeiture amount for failing to maintain operational EAS equipment is \$8,000 and failing to maintain quarterly issues/programs lists in the public inspection file is \$10,000.⁹ Because station WLAA's public inspection file contained a portion of the items required, a downward adjustment of the base amount to \$4,000 is warranted. However, because Rama has received two prior Notices of Violation and two prior Notices of Apparent Liability for violation of Section 73.3526,¹⁰ an upward adjustment to \$8,000 is warranted. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.¹¹ Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Rama is apparently liable for a \$16,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, 0.314 and 1.80 of the Commission's Rules, Rama Communications, Inc., is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of sixteen thousand dollars (\$16,000) for violations of Sections 11.35(a) and 73.3526 of the Rules.¹²

9. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Rama Communications, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial

⁹ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹⁰ *Rama Communications, Inc.*, Notice of Violation V20053270002 (rel. Nov. 1, 2004); Notice of Violation V20063270002 (rel. May 16, 2006); Notice of Apparent Liability for Forfeiture NAL/Acct. No. 200432700011 (Enf. Bur., Tampa Office, March 5, 2004) ("*NAL 1*"); and Notice of Apparent Liability for Forfeiture NAL/Acct. No. 200732700013 (Enf. Bur. Tampa Office, June 6, 2007) ("*NAL 2*"). See also Memorandum Opinion and Order, 22 FCC Rcd 1104 (Enf. Bur. 2007) (denying Rama's petition for reconsideration of *NAL 1*); Forfeiture Order, 22 FCC Rcd 13796 (Enf. Bur. South Central Region, 2007) (no response Forfeiture Order for *NAL 2*).

¹¹ 47 U.S.C. § 503(b)(2)(E).

¹² 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80, 11.35(a), 73.3526

Federal Communications Commission

Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Rama also will send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Tampa Office, 2203 N. Lois Avenue, Suite 1215, Tampa, Florida, 33607 and must include the NAL/Acct. No. referenced in the caption.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Rama Communications, Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director
Tampa Office
South Central Region
Enforcement Bureau